

Committee/Meeting: Cabinet	Date: 13 March 2013	Classification: Report unrestricted. Appendices exempt	Report No: CAB 85/123
Report of: Corporate Director: Isobel Cattermole Originating officer(s) Deborah Cohen Service Head, Commissioning and Health		Title: Letting Supporting People Contracts 2012- 2015: The Mobilisation Plan Wards Affected: All	

Lead Member	Cllr. Abdul Asad
Community Plan Theme	A Safe and Supportive Community A Great Place to Live A Healthy Community
Strategic Priority	Providing effective local services and facilities Enabling people to live independently

1. **SUMMARY**

1.1 In March 2012 Cabinet agreed the contract award for the Supporting People Framework Agreement; a type of approved providers list against which all current Supporting People contracts will be let over a three year period. As these are effectively inherited services, this is the first time most will be subject to a competitive tender of this type.¹

In awarding the Framework, Cabinet agreed that each of the current contracts will be let to the supplier who offers best value in the relevant category; therefore removing the need to run separate competitive tendering exercises for each individual service.

1.2 The Framework is being used to let contracts for supported housing and floating support services for people who are vulnerable, homeless and in need of support, and can be broadly categorised into a number of service types:

- A. Hostels for the single homeless and rough sleepers with support needs-including complex substance misuse;
- B. Refuge accommodation and floating support services for women and children fleeing domestic violence;
- C. Support staff or “wardens” in sheltered accommodation;

¹ Supporting People Services were moved from central Government funding into a locally funded contracted framework in 2003.

- D. Floating support services for vulnerable people living in their own homes;
- E. Supported accommodation and floating support for adults with learning or physical disabilities, or mental health issues;
- F. Supported accommodation for young vulnerable homeless people.

1.4 These services provide a vital role in supporting the Council's ability to meet its statutory duty for those with critical and substantial needs, as well as improving its offer to those vulnerable people in the Borough who may not.

1.5 At any one time these services will be providing support to **2636** vulnerable people in supported housing and hostel schemes across the Borough. In addition, in the region of **523** vulnerable people will be making use of a floating support service to maintain their independence at home or to prevent an imminent eviction. A total of **2720** service users on a daily basis.

When considered over a period of time, the number of people who will benefit from one of these services is far greater. In the period 2011-2012 alone **4028** vulnerable people used one or more of these services to improve or maintain the quality of their lives.

1.6 The 2012-13 budget allocation for these services is **£14m**, which funds **105** established contracted services with **23** different third sector Providers.

1.7 Of note, a significant number of Supporting People contracts are currently due to expire on the 31st March 2013. Whilst we have made steady progress in re-contracting this complex portfolio of services, significant delays in finalising the Framework mean it is not possible to re-contract all existing services within this timeframe.

1.8 Therefore, it is considered necessary to programme the completion of this project over a 2 year period until March 2015. The timetable of mobilisation, detailed in appendix 2, clearly indicates the majority of this commissioning activity will take place during year one. However there is a need to schedule a small number of the contracts to be let in year 2 of the programme.

1.7 As stated the services listed are all scheduled to end on the 31st March 2013. If we are unable to extend for the periods highlighted, the contracts will cease and the services will have no option but to close on this date.

For the services listed, this equates to in the region of **2256** current service users for whom we will need to find alternative accommodation and or support at significant cost to the Council and service user disruption:

- 631 people in sheltered accommodation;
- 484 people living in hostels;

- 523 people receiving a floating support service in their own home. This will include service users with complex mental health issues under the care of Community Mental Health Teams, for whom we have a statutory responsibility; and
- 618 vulnerable people with support needs living in supported accommodation. Again, this will include service users for whom we have a statutory responsibility, including those with complex mental health needs under the care of Community Mental Health Teams and people with learning disabilities under the care of the Community Learning Disabilities Service.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommend to –

- 2.1 Agree the proposed re-commissioning mobilisation plan for the next 2 year period and the listed contract extensions required to facilitate this process.
- 2.2 Note that the extensions requested are for the maximum period required and allow contingency in the event of unforeseen issues arising. Officers will work to keep the required extension period to a minimum period possible. No blanket extensions will be applied. All extensions will be expressed as ‘up to’ the agreed period.
- 2.3 Authorise the Assistant Chief Executive (Legal Services) to enter into all necessary documents to implement the decision at 2.1.

3. REASONS FOR THE DECISIONS

- 3.1 Given the scale of the contracts to be let against the Framework Agreement, it will not be possible to enter into new contracts for all services due to expire on 31st March 2013. The framework itself is valid for four years and it is recommended that the programme of re contracting is staged over a two year period to be completed by 31st March 2015.

This will allow the commissioning, legal, and procurement services the capacity to respond to this tendering programme, within the Adult Services context of significant care services and public health commissioning over this same period.

- 3.2 Having considered all other options; unless we are able to extend these contracts beyond March 31st 2013 they will automatically cease and we will have no choice but to close services and seek to find alternative services for individuals.
- 3.3 In order to re-let the services against the Framework and then manage the potential handover period that follows, it will not be possible to condense the process into a shorter time-frame then listed. We are recommending the

minimum extension periods we consider feasible to deliver the re-commissioning programme in its entirety, and have significantly condensed this programme in light of previous comments received.

- 3.4 In recommending this action officers are mindful of the impact on service users and the need to allow for TUPE transfer of staff where providers are to change. There is also a need to fit this work in around other planned commissioning activity. Where possible the Procurement Policy Imperatives will be incorporated into extensions but this will be subject to negotiation with the current provider.

4. ALTERNATIVE OPTIONS

- 4.1 As procurement via the Framework is considered to be the most cost effective and efficient method of procurement, no alternative options are being proposed.
- 4.2 There are no suitable alternatives that would enable all existing services to be re-contracted within the short timeframe available, so eliminating the requirement of any contract extensions beyond March 31st 2013.
- 4.3 There are significant risks both to service continuity and the impact on service users should we seek to further reduce the recommended timescales.

5. BACKGROUND

5.1 What Are Supporting People Services?

- 5.1.1 Supporting People services support vulnerable people to access and maintain settled accommodation. Tower Hamlets currently has **105** Supporting People services which can be categorised as follows:
- Hostels for the single homeless and rough sleepers with support needs including complex substance misuse;
 - Refuge accommodation and floating support services for women and children fleeing domestic violence;
 - Support staff or “wardens” in sheltered accommodation;
 - Floating support services for vulnerable people living in their own homes;
 - Supported accommodation and floating support for adults with learning or physical disabilities, or mental health issues.
 - Supported accommodation for young vulnerable homeless.

5.1.2 The 2012-13 budget allocation for these services is **£14m**, which funds **105** established contracted services with **23** different third sector Providers, many of whom are local to the Borough.

Providers	% of Budget
ASRA	0.1%
Coram Leaving Care	0.7%
East Living	6.8%
Epic Trust	1%
Gateway Housing Association	4%
Industrial Dwellings Society	0.1%
Livability	0.8%
Look Ahead	24%
Mencap	0.7%
Mercers	0.1%
Nacro	1.2%
Notting Hill Trust	0.1%
Outward	3.8%
Providence Row / Kipper	27.8%
Radicle	0.4%
Refuge	1.4%
Salvation Army	15.6%
Sanctuary	2.1%
Spitalfields Crypt Trust	0.1%
Genesis	4.6%
Together	0.4%
Toynbee	1%
Veterans Aid	1.2%

5.1.3 At any one time these services will be providing support to **2636** vulnerable people in supported housing and hostel schemes across the Borough; a significant number of whom we have a statutory obligation to provide a service. In addition, in the region of **523** number of vulnerable people will be making use of a floating support service to maintain their independence at home or to prevent an imminent eviction.

When considered over a period of time, the number of people who will benefit from one of these services is far greater. In the period 2011-2012 alone **4028** vulnerable people used one or more of these services to improve the quality of their lives.

5.2 Procuring Services from the Framework: Why a 2 year Programme?

Implementing the Procurement Policy Imperatives

The Framework Agreement was established in March 2012, prior to the recent development of the Procurement Policy Imperatives.

Whilst all Supporting People contracts continue to promote workforce diversity and equality of opportunity and are committed to paying the London Living Wage; we are interested in exploring opportunities to include specific community benefit clauses that encourage and create local employment and training opportunities.

This will require further exploration and time to enable us to introduce this into our Framework Contracts through the mini-tendering processes to inform service design and contract award.

The Strategic Context

Services provided within these contracts work across Council Directorates to support the delivery of a number of key Council Strategies, including:

- The Homeless Strategy
- The Housing Strategy
- Mental Health Accommodation Strategy

The Supporting People Commissioning Strategy 2011- 2016, agreed by Cabinet in April 2011, was originally designed to inform the commissioning of all Supporting People Services over this period. Whilst this Strategy will continue to form the basis of all commissioning decisions it has been necessary to undertake more detailed strategic work in a number of key areas. Commissioning Plans due to be presented to MAB/ Cabinet later this year will set out the proposed future direction and commissioning framework for services within these categories.

- The Learning Disabilities Accommodation Commissioning Plan;
- The Young Peoples Supported Accommodation Commissioning Plan;
- The Hostels Commissioning Plan

Priority for new contracts will be given to those services linked to these significant pieces of strategic work. We anticipate major reconfiguration, decommissioning and an intensive programme of change management across a number of high profile client group areas to deliver both efficiency and quality targets and improve the service user experience; and would therefore require political assent prior to commencement.

Understanding the separation of buildings and support services

As stated, this is the first time these support services have been subject to a competitive tendering process. In the main, the accommodation where people live and are supported has been developed and is owned by the Support Provider.

This Framework re-contracting process sets out an ambitious programme of separating the support provision from the provision of accommodation; in a great many cases service users will continue to reside in the property managed by their RSL but the support provider may change as a result of the commissioning process.

We are working with Support Providers and Landlords to establish their position regarding this process as there is a risk to the continuation of the service if we are not able to secure agreement to this approach with the partners concerned. This has to be carefully managed to ensure that all inherent risks are recognised and mitigated at the earliest opportunity; adding significant time pressures to the traditional re-tendering process.

Mini Tenders: TUPE and Service Transfers

Whilst a Framework Agreement is in place, we are in the main tendering existing services which we wish to continue. We therefore anticipate TUPE rights will apply to the current staffing teams.

This requires us to carefully manage the process of costing services via a mini tender competition that includes all current staffing costs. This together with the services being targeted at vulnerable people requires a longer lead in process to both manage the decision process itself and the subsequent handover of services where this takes place.

Capacity of Providers to respond to Tenders

It is important to note that any accelerated programme of commissioning may significantly impact on the capacity of suppliers to respond to the tendering processes.

We are generally working with a small group of suppliers who will need to submit bids, submit tender documentation and also manage the processes of significant handovers we anticipate taking place for multiple tendering processes within a confined period.

Delivering the Mental Health Accommodation Strategy

Under this mobilisation plan we have scheduled all Mental Health Services to be re-contracted at the end of the programme in year 2.

The recently agreed Mental Health Accommodation Strategy commits the Borough to significant change in the provision of accommodation options for people with mental health needs who require; registered care, supported accommodation or support in their own homes. These commitments will deliver both a significant enhancement in service user experience and the quality of services, but also substantial efficiency savings in the region of £900k over a three year period.

In order to implement the substantial change we require in the supported accommodation services, and to meet challenging efficiency and outcome targets, we consider it vital to maintain stability in this area for the next two year period.

We have worked with current Providers to implement significant efficiency and outcome targets which would be seriously compromised if we were to commence the re-tendering process prior to this date.

5.3 The mobilisation Plan for entering into new contracts: Letting all existing services against the Framework Agreement

5.3.1 The significant advantage of implementing a framework is that both new and existing services can be quickly re-contracted in line with formally identified strategic need. The Call-Off timetable will deliver:

- Economically advantageous services
- An increase in the quality of services for vulnerable people
- Outcomes identified by the key strategic drivers
- Identified efficiency targets

5.3.2 Whilst we have made steady progress in re-contracting this complex portfolio of services, significant delays in finalising the Framework mean it is not possible to re-contract all existing services within this timeframe.

The tables set out in appendix 2 illustrate how the remaining services will be re-let over the coming forthcoming two year period. The star marks the quarter in which the new contract will be awarded.

5.3.3 In recognition that Supporting People contracts were all inherited and therefore commenced at the same time; this approach both enables the Council to enter into new effective contracts as part of this process as well as establishing a more sustainable rolling programme of contract end dates for the future.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

6.1 The current budget for the services/contracts affected by this series of procurements is £14m and there are efficiency targets of over £1m required to be delivered through the framework arrangements detailed in this report.

6.2 The contract extensions requested would allow for the procurement process to be managed effectively and ensure that maximum efficiencies can be delivered. For the reasons detailed in section 5.2 it is not possible to complete the re-commissioning process for all services earlier.

6.3 Bringing forward the procurement timelines could impact on the quality of service design as well as the level of efficiencies that could potentially be realised from this process.

6.4 The financial implications of the contract extensions are expected to be managed within current budget allocations with no negative impact on the level or timing of savings required by the MTFP.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

7.1 The planned procurement for these services is to use a Framework Agreement. The relevant EU directive (2004/18/EC) defines a framework agreement as an agreement with suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period (usually 4 years) , in particular with regard to price and quantity.

7.2 In the UK the term framework agreement is normally used to cover agreements which set out the terms and conditions for subsequent call-offs but place no obligations, in themselves, on the Council to buy anything. The benefit of this kind of agreement is that, because the Council is not tied to the agreement, it is free to use the framework when it provides value for money, but can scale expenditure up or down depending on its needs and the availability of finance. Also there is an efficiency saving as when work is called off the contract there is no need to complete a separate contract for each call off as the terms have been set as the framework was awarded.

7.3 The key to this type of framework is that it is a means of reducing procurement work because contracts can be awarded under framework agreements without the need to re-advertise and re-apply the selection and award criteria. The Council's interests are protected as the contractors' financial viability, health and safety policy, equalities policy, insurances and quality procedures have all been assessed as the framework was awarded.

7.4 Due to the circumstances detailed above it is not possible to achieve the call offs by the time that the current contractual arrangements expire. It is therefore proposed to extend the existing contracts for a defined period so that the market is not destabilised by calling off too many services in a short period of time.

7.5 Although most health and social care services are the non-priority services of limited cross border interest set out in Schedule 3 of the Public Contract Regulations 2006 and so not covered by the regulations the Council does need to take into account the EU principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment. In 1998 this was been interpreted by the European Court of Justice as requiring a "degree of advertising sufficient to enable the market to be opened up to competition".

7.6 In undertaking any procurement the Council should have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't.

Information relevant to these considerations is set out in the report, particularly in section 8.

- 7.7 The Public Services (Social Values) Act 2012 came into force on 31 March 2013. Under this Act, the Council is required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area. It applies to all public services contracts and those public services contracts with only an element of goods or works. It doesn't apply to public work contracts or public supply (goods) contracts.
- 7.8 The Act requires the authority, at the start of a procurement, to consider if it should consult on the best way to achieve the improvement of the economic, social and environmental well-being of the area. It sits alongside other procurement laws but does not override them so care will need to be taken on the extent to which it can be adopted. Value for money remains the overriding factor that should determine all public sector procurement decisions. However, there is a growing understanding of how value for money is calculated, and how "the whole-life cycle requirements" can include social and economic requirements. The new legislation reinforces the best practice of what can already take place. In negotiating the terms of the extensions these duties can be fulfilled.
- 7.9 The Council has a duty of best value under section 3 of the Local Government Act 1999. By virtue of this duty it is required to ensure continuous improvement in all its dealings. For local authorities, under their duty to achieve best value they must already consider social, economic and environmental value. The Best Value Statutory Guidance has been updated to take account of the Act.
- 7.10 The extension of contracts beyond their termination date is not recommended as it is open to challenge for being anti-competitive. It also makes it more difficult to fulfil the new duties under the Public Services (Social Values) Act 2012. However the risk to the Council is mitigated by the fact that these are Part B services and so not subject to the full rigour of EU procurement regime. The Council could also argue that it does have a clearly articulated plan as to how the services are to be reprocured but it is very important that this plan is strictly adhered to and there is no further slippage.

8. ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 The recipients of supported housing services are among the most vulnerable members of the community and are provided with a high standard of accommodation and person centred support. Ability to meet the needs of the diverse community of Tower Hamlets effectively was a key criterion in the evaluation of the tenders; all suppliers selected for inclusion onto the Framework demonstrated understanding and experience of providing support to all service users of Tower Hamlets.

- 8.2 Due regard is given to remove or minimise disadvantages suffered by people due to their protected characteristics through promotion of services in different formats and languages.
- 8.3 Steps are taken to meet the needs of people from protected groups where these are different from the needs of other people. The Service ensures that it offers a range of services to meet the needs of a wide range of clients ranging from those with learning disabilities, physical disabilities and long term conditions such as living with HIV/AIDS. Special focus is given to providing services to the diverse faith and ethnic communities in Tower Hamlets through culturally appropriate best practice, a diverse workforce reflecting the community they service and a range of language skills.
- 8.4 The Council seeks to encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low through volunteering, and engagement in shaping services and decision that affect their own lives, such as involvement in user groups and steering groups.
- 8.5 All services will be required to implement London Living Wage as part of the re-contracting process.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 9.1 The design, construction and running of any new facilities will follow best practice and the Council's Environmental Strategy.
- 9.2 The project will seek to deliver buildings which maximise energy efficiency and innovative design which could unlock additional Housing Corporation funding and follow the London Development Agency "Sustainable Development Guide: Implementing Sustainable Design & Construction". Work will be undertaken with planning an urban design on detailed planning briefs for each site to incorporate these aspects.

10. RISK MANAGEMENT IMPLICATIONS

As stated should the mobilisation plan not be agreed and the contracts currently scheduled to end on 31st March not be extended, this presents a significant risk to the Borough. The contracts for X number of services will cease, the services will have to close and we will lose x number of supported accommodation units. The Borough will have to address the immediate housing and support needs of 2256 vulnerable service users who currently live in this range of high to low supported accommodation and hostel provision.

The call-off timetable will not be achievable if the identified contracts are not extended.

11. CRIME AND DISORDER REDUCTION IMPLICATIONS

Supporting People services and their commissioning will play a vital role in this area. In developing a Hostels Commissioning Plan which will inform the tendering of hostel services, we are keen to establish minimum standards for these services to reduce crime and disorder issues often associated with this complex client group.

12. EFFICIENCY STATEMENT

- 12.1 The framework tender process was explicitly designed to ensure that potential suppliers could tangibly demonstrate both efficiency and value for money in each client group area applied for.
- 12.2 The Framework Agreement will significantly increase the range and quality of services, whilst having the added benefit of reducing current high cost services.
- 12.3 The Framework mobilisation or re-letting of the contracts will make a significant contribution to the Council's overall efficiency targets. The Supporting People Programme has to date delivered significant efficiency savings in the region of £1.2m and will continue to deliver further savings as the programme is implemented over the next two year period.

13. APPENDICES

The Appendices are exempt/restricted as they contain information falling within paragraphs 2, 3 and 4 of Schedule 12A of the Local Government Act 1972. The relevant categories are:

3) Information relating to the financial or business of any particular person (including the authority handling the information)

Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
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None

NA